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October 28, 2024

VIA ECF

The Honorable Thomas I. Vanaskie
Special Master for Discovery
Stevens & Lee 1818 Market Street, 29th
Floor
Philadelphia, PA 19103

RE: *In re Valsartan, Losartan, and Irbesartan Products Liability Litigation*, No. 1:19-md-2875-RBK-KMW (D.N.J.)

Dear Special Master Vanaskie:

Per the Court's Case Management Order 36 (ECF 2912), this letter provides Defendants' proposed agenda for the October 29, 2024 Case Management Conference.

I. SUBJECT MATTER JURISDICTION

Having reviewed the bellwether pool more closely, Defendants seek to bring to the Court's attention that there are two cases within the narrowed bellwether candidate pool in which complete diversity between the parties is lacking. As such, before proceeding further with these cases, Plaintiffs would need to dismiss the non-diverse Defendants. Alternatively, the cases would need to be dismissed for lack of jurisdiction and replaced.

1. *Roberts v. ZHP, et al.*, No. 1:20-cv-00946 (the first trial, as proposed by Plaintiffs): The deceased Plaintiff and estate representative are both Alabama

citizens. Mr. Roberts' Short Form Complaint names as a defendant his local pharmacy, North Baldwin Family Pharmacy, located in Bay Minette, Alabama. It is unclear whether the pharmacy was ever served.

2. *Pate v. ZHP, et al.*, No. 1:20-cv-01248: The Plaintiff is a citizen of Delaware, and there are several Defendants that are Delaware citizens—Solco Healthcare U.S., LLC; CVS Health;¹ and Prinston Pharmaceutical Inc. Defendants recognize that Plaintiffs may want to dismiss this case, though refiling in state court would raise statute-of-limitations issues.

II. PROPOSED CASE MANAGEMENT SCHEDULE FOR THE *ROBERTS* TRIAL

Assuming the non-diverse defendant is dismissed, Defendants propose the case management schedule below for the first bellwether trial, *Roberts v. ZHP, et al.*, which was selected by Plaintiffs and is tentatively scheduled to begin September 2, 2025. *See* ECF 2912; Oct. 22, 2024 Tr. 58:10–14.

Event	Date
Close of case-specific fact discovery	February 14, 2025
Deadline for Plaintiff to designate experts and serve expert report(s)	February 28, 2025
Deadline for Defendants to designate experts and serve expert report(s)	March 28, 2025
Close of expert discovery	April 25, 2025
Deadline to file: (i) Rule 702 motions; and (ii) summary judgment motions	May 9, 2025
Deadline to file oppositions to: (i) Rule 702 motions; and (ii) summary judgment motions	June 6, 2025
Deadline to file replies in further support of: (i) Rule 702 motions; and (ii) summary judgment motions	June 27, 2025
Deadline to submit (i) joint final pretrial order; and (ii) deposition designations and any objections thereto	July 18, 2025

¹ Pate's Short Form Complaint checks the box for CVS Health. The Master Personal Injury Complaint names the proper entity, CVS Pharmacy, Inc. Regardless, both CVS Health Corporation and CVS Pharmacy, Inc. are citizens of Delaware.

Event	Date
Deadline to file (i) pre-trial briefs or proposed findings of fact and conclusions of law; (ii) motions <i>in limine</i> ; (iii) proposed jury instructions; (iv) proposed verdict sheet; and (v) proposed jury questionnaire	August 8, 2025
Deadline to file oppositions to motions <i>in limine</i>	August 15, 2025
Deadline to submit: (i) lists of pre-marked exhibits; and (ii) witness lists	August 22, 2025
Pretrial conference	August 25, 2025
Jury selection begins	September 2, 2025

III. PROPOSED DISCOVERY AND MOTIONS SCHEDULE FOR BELLWETHER TRIAL TWO

Defendants propose the following schedule for the work-up of the other five bellwether cases that are candidates for the second trial.

Event	Date
Close of case-specific fact discovery and any general fact discovery against any non-manufacturing Defendant named in the five bellwether cases	April 25, 2025
Deadline for Plaintiffs to designate experts and serve expert report(s)	May 9, 2025
Deadline for Defendants to designate experts and serve expert report(s)	June 13, 2025
Close of expert discovery	July 11, 2025
Deadline to file: (i) Rule 702 motions; and (ii) summary judgment motions	August 8, 2025
Deadline to file oppositions to: (i) Rule 702 motions; and (ii) summary judgment motions	September 19, 2025
Deadline to file replies in further support of: (i) Rule 702 motions; and (ii) summary judgment motions	October 10, 2025

Once the Court rules on summary judgment and Rule 702 motions, Defendants believe that they should be allowed to select the second trial candidate from any remaining cases since Plaintiffs selected the first case. Defendants further propose that, within three (3) calendar days of Defendants' selection of the Plaintiff for the second bellwether trial, the parties should be required to submit either a jointly-proposed schedule for completing the remaining case management tasks necessary to ready the second bellwether case for trial (including submission of jury instructions, pretrial brief, and a pretrial order, etc.) or, if an agreement cannot be

reached, each party's competing proposal. Subject to the Court's direction, Defendants believe the second bellwether case could be tried in early 2026.

* * *

Defendants will be prepared to address the issues above, as well as any additional issues raised in Plaintiffs' proposed agenda and any other matters that Your Honor would like to discuss, at the October 29, 2024 Case Management Conference.

Respectfully submitted,



Jessica Davidson

cc: All counsel of record (via ECF)